

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

MID-AMERICA CARPENTERS REGIONAL
COUNCIL,

Plaintiff,

V.

ALBERT BOND,
INTERRAIL OUTDOOR, LLC, and
FOXPOINT INTERACTIVE, LLC,

Defendants.

Case No. 4:22-cv-00291

JURY TRIAL DEMANDED

MOTION TO STRIKE DEFENDANT BOND'S AMENDED COUNTERCLAIM

Plaintiff Mid-America Carpenters Regional Council, by its attorneys Terrance B. McGann and Karen M. Rioux of McGann Ketterman & Rioux, and James G. Martin of Dowd Bennett LLP move this Court to strike Defendant Albert Bond's Amended Counterclaim and state the following in support thereof:

1. On May 4, 2022, Defendant Bond filed his Answer to Plaintiff's Complaint, his Affirmative Defenses, and his Counterclaim against Plaintiff Mid-America Carpenters Regional Council.

2. On May 24, 2022, Plaintiff filed its Motion to Dismiss Bond's Counterclaim pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. Local Rule 4.01 (B) requires each party opposing a motion (other than a motion seeking an extension of time) to file, within fourteen (14) days after service of the motion, a single memorandum containing any relevant argument and citations to authorities on which the party relies.

4. Bond's response to the Plaintiff's motion was due on June 7, 2022. Rather than file his timely response or seek an extension of time from the Court, Bond filed his Amended Counterclaim on June 22, 2022.

5. Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure allow a party to amend a pleading as a matter of course within 21 days after service of a motion under Rule 12(b). In all other cases, a party may only amend with consent of the moving party or by leave of Court. Bond failed to secure consent of the Plaintiff and has failed to seek leave of Court to file his Amended Counterclaim within the time prescribed by the Local Rules or the Federal Rules of Civil Procedure.

WHEREFORE, Plaintiff respectfully requests that the Amended Counterclaim filed by Defendant Bond be stricken with prejudice.

Respectfully submitted,

By: /s/ Terrance B. McGann
One of the attorneys for the Plaintiff

MCGANN, KETTERMAN & RIOUX

Terrance B. McGann
Karen M. Rioux
111 E. Wacker Dr., Suite 2300
Chicago, IL 60601
Telephone: (312) 251-9700
Facsimile: (312) 251-9701
tmcgann@mkrlaborlaw.com
krioux@mkrlaborlaw.com

DOWD BENNETT LLP

James G. Martin, #33586MO
7733 Forsyth Blvd., Suite 1900
St. Louis, MO 63105
Telephone: (314) 889-7300
Facsimile: (314) 863-2111
jmartin@dowdbennett.com

CERTIFICATE OF SERVICE

The undersigned, Terrance B. McGann, an attorney, hereby certifies that he caused the foregoing MOTION TO STRIKE DEFENANT BOND'S AMENDED COUNTERCLAIM to be served upon all attorneys of record via the Court's CM/ECF system on June 30, 2022.

/s/ Terrance B. McGann